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GOVERNMENT GAZETTE

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SUPPLEMENT

(SUPLEMENTO)

GOVERNMENT OF GOA, DAMAN AND DIU

Legislative Assembly of Goa, Daman and Diu

Legislature Department

LA/1969/65

The following Bill which was introduced in the Legislative Assembly of Goa, Daman and Diu on the 10th March, 1965, is hereby published for general information in pursuance of the provisions of rule 127 of the Rules of procedure and Conduct of Business of the Legislative Assembly.

The Goa, Daman and Diu Agricultural Tenancy (Amendment) Bill, 1965

(Bill No. 3 of 1965)

A Bill to amend certain provisions of the Goa, Daman and Diu Agricultural Tenancy Act, 1964.

Be it enacted by the Legislative Assembly of Goa, Daman and Diu in the Sixteenth year of the Republic of India as follows:

1. Short title:

This Act may be called the Goa, Daman and Diu Agricultural Tenancy (Amendment) Act, 1965.

2. Amendment of Section 20:

In section 20 of the Goa, Daman and Diu Agricultural Tenancy Act, 1964 (hereinafter called the principal Act), in sub-section (5), for the words «by way of gift, made on or after the date to be notified in this behalf», the following words and figures shall

be substituted and deemed always to have been substituted, namely —

«made by the owner of any property on or after the 28th July, 1964».

3. Amendment of Section 26:

In section 26, of the principal Act, in the Proviso to sub-section (3), for the words «shall contribute» the following words shall be substituted, and deemed always to have been substituted, namely —

«shall, on such conditions as may be prescribed, contribute a sum not exceeding»

4. Amendment of section 38:

In section 38 —

- (i) in subsection (1), after the words «supply of water» the word «or» shall be inserted and deemed always to have been inserted; and
- (ii) after subsection (3), the following subsection shall be inserted and deemed always to have been inserted:

«(4) Nothing in subsection (1) shall be deemed to confer on the tenant any right to any fisheries or other property in the ownership or possession of Government or to authorise him to block or stagnate water for the purpose of catching or breeding fish, in any land used for agriculture».

5. Amendment of section 55:

In section 55, of the principal Act:

- (i) after the words «hereby declared», the following words shall be inserted, and deemed always to have been inserted, namely: «that the lands owned by a Comu-

nidade shall be deemed to be owned by it as a single person and not by the individual members thereof and»; and

- (ii) for the words «lands owned by Comunidades» the words «such lands» shall be substituted, and deemed always to have been substituted.

Memorandum of delegated legislation

Under the proposed amendment to Section 26, rules are to be made for regulating the pattern of the assistance from the Government.

Statement of objects and reasons

Amendment of Section 20:

The Planning Commission has expressed the view that the existing provision in sub-section (5) of section 20 would give rise to large scale evasion of the beneficial provisions in the Act and that it should be amended so as to secure that all transfers of property, whether by way of sales, mortgages or gifts, made after the date of introduction of the Agricultural Tenancy Bill, 1964 should be ignored for the purposes of ascertaining the resumable area.

The proposed amendment is intended to give effect to this suggestion.

Amendment of Section 26:

It has been pointed out by the Central Government that the existing proviso to Section 26 creates a permanent statutory financial obligation and that it is desirable to provide that the contribution should be made in accordance with the prescribed pattern and after ensuring that the repairs are carried out properly and effectively.

The proposed amendment is intended to give effect to this.

Amendment of Section 38:

The proposed amendments are to clarify the intention.

Amendment of Section 55:

A doubt has been expressed that lands owned by Comunidades might be regarded as being owned individually by the members thereof. As the correct legal position is otherwise, a clarification has been made by the proposed amendment.

Secretariat
Panjim,
10th March, 1965.

D. B. BANDODKAR
Chief Minister

ASSEMBLY HALL,
Panjim, March 10, 1965

S. BALAKRISHNAN
Secretary to the Legislative
Assembly of Goa, Daman
and Diu

Annexure to Bill No. 3 of 1965 — The Goa, Daman
Agricultural Tenancy (Amendment Bill).

The Goa, Daman and Diu Agricultural Tenancy Act
of 1964 (Act 4 of 1964)

20. Resumption of land for personal cultivation. —

(1) Notwithstanding anything contained in the other provisions of this Act, but subject to the provisions of this chapter, a landlord may, in the man-

ner provided in sub-section (2), terminate the tenancy of any land if the landlord genuinely requires the land for cultivating it personally.

(2) Where the landlord proposes to act under sub-section (1) he shall give a notice to the tenant in writing, stating the purpose for which the landlord requires the land and shall, save as otherwise provided in sub-section (3), serve the notice on the tenant on or before a date to be notified in this behalf by the Government. A copy of such notice shall, at the same time, be sent to the Mamlatdar. An application for possession shall be made to the Mamlatdar within ninety days from the date aforesaid and the Mamlatdar may, after being satisfied as to the genuineness, pass orders authorising the termination of tenancy and eviction of the tenant.

(3) Where the landlord is a minor, or a widow with a life interest or a person serving in the Defence Forces or a person subject to any physical or mental disability, then, if he has not given a notice and made an application as required by sub-section (2), such notice may be given and such application may be made —

(a) by the landlord within one year from the date on which —

- (i) in the case of a minor, he attains majority;
- (ii) in the case of a person serving in the Defence Forces, he ceases to serve in such Forces, and
- (iii) in the case of a person subject to physical or mental disability, he ceases to be so subject; and

(b) in the case of a widow with a life interest, by the successor in title within one year from the date on which the widow's interest in land ceases to exist:

Provided that where land is held by two or more joint holders, the provisions of this sub-section shall not apply, if at least one joint holder is outside the categories specified in this sub-section:

Provided further that in cases coming under sub-clause (ii) of clause (a), the provisions of sub-sections (4) and (5) shall not apply.

(4) The landlord's right to terminate the tenancy of any tenant under sub-section (1) shall be subject to the following conditions —

(a) the landlord or a member of his family must reside in the village in which the land is situated or in a village within 7 kilometres thereof, during the major portion of any agricultural season;

(b) he shall not be entitled to resume more than 2 hectares of paddy land in the case of Khajan or Ker lands and 4 hectares in the case of any other land;

(c) the landlord is not cultivating any other land;

(d) the income by the cultivation of the land he seeks to resume is his main or principal source of income for his maintenance; and

(e) if more tenancies than one are held under the same landlord, then the landlord shall be competent to terminate only the tenancy or tenancies which are the shortest in point of duration.

Explanation — For the removal of doubt it is hereby declared that the condition in clause (c) shall not apply where the extent of land, if any, already under the personal cultivation of the landlord is less

than the ceiling specified in clause (b) and the area sought to be resumed does not exceed what is required to make up such ceiling.

(5) For the purposes of this section all partitions of property between co-owners, joint tenants or co-parceners, and all transfers of property by way of gift, made on or after the date to be notified in this behalf, shall be ignored and deemed not to exist, unless such partition or transfer is approved by the Tribunal.

(6) No tenancy can be terminated under this section —

(a) in such manner as will result in leaving with a tenant, after termination, less than half the area of the land leased to him, or

(b) if the tenant has become a member of a co-operative farming society, so long as he continues to be such member.

(7) If a landlord who resumes any land for personal cultivation under the foregoing provisions fails to cultivate the land within one year from the date of such resumption he shall, within the prescribed time, restore possession of the land to the tenant who was cultivating the land immediately before such resumption.

(8) If, within the prescribed time, the tenant makes an application to the Mamlatdar and satisfies him that the landlord has failed to comply with the provisions of sub-section (7), the tenant shall be entitled on a direction by the Mamlatdar to obtain immediate possession of the land and to such compensation as may be awarded by the Mamlatdar for any loss caused to the tenant by eviction and by failure on the part of the landlord to restore or give possession of the land to him as required under that sub-section.

(9) If, in consequence of the termination of tenancy under the foregoing provisions, any part of the land leased is left with the tenant the rent of the land so left shall be apportioned in the prescribed manner in proportion to the area of such land.

(10) The tenancy of any land left with the tenant after the termination of the tenancy for personal cultivation, shall not, at any time, afterwards be liable to termination again on the ground that the landlord genuinely requires the land for personal cultivation.

26. Liability for cost of cultivation, tax, works etc. — (1) In the case of land in respect of which rent has been fixed under the foregoing provisions a landlord shall not be liable to make any contribution towards the cost of cultivation of the land in the possession of his tenant, except to the extent otherwise specifically provided for in this Act.

(2) (a) The liability to pay land revenue in accordance with the provisions of any law for the time being in force shall be that of the landlord.

(b) The liability to pay irrigation cess in accordance with the provisions of any law for the time being in force, shall be that of the tenant.

(c) The liability to pay any other rate, tax, fee, cess, or other charge levied by or under any other law shall be as provided in such law and in the absence of any provision, that of the tenant.

(3) In the case of Khajan and Ker lands the duty and responsibility of carrying out works of main-

tenance, repair and conservancy of banks, bunds, or ridges of tanks or rivers or other sources of irrigation shall be that of the tenant and the landlord shall not be liable to make any contribution to the cost of such works:

Provided that in the case of repairs to breaches in the protective or other bunds in Khajan lands, Government shall contribute 50 per cent of the cost of such repairs.

(4) Where the benefit of any such works as is referred to in the preceding sub-section is derived by or is available to more tenants than one, the cost of such works shall be distributed between all such tenants in such proportion as may be agreed to between them or, in the absence of an agreement, as may be determined by the Mamlatdar, having due regard to all relevant circumstances of the case.

(5) For the purpose of ensuring that the duty and responsibility referred to in sub-section (3) are discharged properly and promptly, the Government may, by order, direct the tenants concerned to take such measures as may be specified in the order. A copy of every such order shall be sent to the landlord.

(6) If any tenant commits default in complying with any direction or order passed under the preceding sub-section the provisions of sub-sections (4) and (6) of section 37 shall apply to such default as if it is a default within the meaning of that section.

38. Tenant's right to operate sluice gates. — (1) Where, for the purpose of regulating supply of water for irrigation of any land, there is any sluice gate or other such contrivance, the right to operate and the duty and responsibility of maintaining such sluice gate or other contrivance, as also the right to the fisheries, if any, in the vicinity thereof, shall be that of the tenant, notwithstanding any other law, custom, usage, agreement or contract, decree or order of any court to the contrary.

(2) Where immediately before the commencement of this Act, any such right as is referred to in sub-section (1) vested in the landlord or any other person, other than the Government, the tenant shall be liable to pay to the landlord or other person, by way of rent for the exercise of the right conferred under that sub-section, a sum of money to be fixed by the Tribunal in accordance with such principles as may be prescribed.

(3) The rights conferred on a tenant under sub-section (1) shall, where there are more tenants than one who derive benefit from the same sluice gate or other such contrivance, be exercised by all the tenants jointly in accordance with such principles as may be prescribed.

55. Lands held by Comunidades. — For the removal of doubts it is hereby declared that the provisions of this Act shall apply to lands owned by Comunidades and the provisions in the Code of Comunidades or any other Decree or other law relating to Comunidades shall stand modified or repealed to the extent necessary.

ASSEMBLY HALL,
Panjim, March 10, 1965

S. BALAKRISHNAN
Secretary